

IFW
#PCE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

David G. Luckstead

Serial Number 10/039,097

Filed: January 2, 2002

For: CONVERTIBLE CANE

Art Unit 3635

Examiner Robert J. Canfield

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on 8/31/04

G. Turner Moller

Reg. No. 22,978

8/31/04

Date

G. Turner Moller

Signature

Response

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This is in response to the Official Office Action of August 23, 2004.

The Final Rejection in this case was mailed November 18, 2003. On February 17, 2004, applicant responded by filing a Request for Continuing Examination and an Amendment. A copy of the Request for Continuing Examination and the post card stamped by the Mail Room on February 17, 2004 is attached.

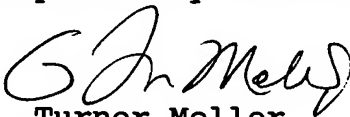
In the Office Action of August 23, 2004, the Examiner refuses to enter the amendment stating that the amendment raises new issues

and the period for reply expires three months from the date of the Final Rejection. In the absence of the Request for Continued Examination and the payment of the \$385 fee, this would be an appropriate action on the part of the Examiner. However, in the face of the Request for Continued Examination and the payment of the fee of \$385, this is not an appropriate response by the Examiner.

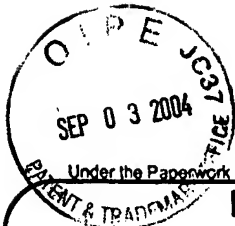
In the event the Examiner continues to refuse entry to the pending amendment and continues to treat this application as if it were under Final Rejection, it is respectfully requested that the Examiner explain why this application is not subject to the Continued Examination provisions of the MPEP Section 706.07(h).

It is submitted that this application is in condition for allowance and early steps toward that end are earnestly solicited.

Respectfully submitted,


G. Turner Moller
Registration 22,978

711 North Carancahua, Suite 720
Corpus Christi, Texas 78475
361/883-7257
August 29, 2004



(BEST AVAILABLE COPY)

PTO/SB/30 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**Request
For
Continued Examination (RCE)
Transmittal**

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number

10/639,097

Filing Date

1/2/02

First Named Inventor

DAVID G. LUCKSTEAD

Art Unit

3637

Examiner Name

JOHN P. FITZGERALD

Attorney Docket Number

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- i. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____

- ii. ☐ Other _____

- b. ☒ Enclosed

- i. ☒ Amendment/Reply

- iii. ☐ Information Disclosure Statement (IDS)

- ii. ☐ Affidavit(s)/ Declaration(s)

- iv. ☐ Other _____

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

- b. ☐ Other _____

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to

- a. ☐ Deposit Account No. _____

- i. ☐ RCE fee required under 37 CFR 1.17(e)

- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

- iii. ☐ Other _____

- b. ☒ Check in the amount of \$ 385 enclosed

- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	G. TURNER MOULDER	Registration No. (Attorney/Agent)	22978
Signature	G. Turner Moulder	Date	2/17/04

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	G. TURNER MOULDER	Date	2/17/04
Signature	G. Turner Moulder		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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IN THE UNITED STATES PATENT AND TRADE MARK OFFICE

In re the application of:

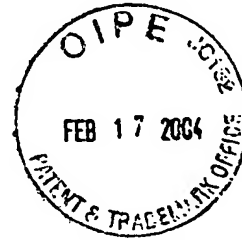
David G. Luckstead

For: CONVERTIBLE CANE

Filed: 1/2/02

S.N. 10/039,097

Examiner: John P. Fitzgerald



Please find enclosed:

Amendment

Request for Continued Examination Transmittal

Check in amount of \$385

